

48A C.J.S. Judges § 279

Corpus Juris Secundum | August 2023 Update

Judges

Joseph Bassano, J.D.; Khara Singer-Mack, J.D.; Thomas Muskus, J.D; Karl Oakes, J.D. and Jeffrey J. Shampo, J.D.

IX. Disqualification to Act

C. Grounds for Disqualification

2. Interest and Relationship

a. Interest

(2) Nature and Degree of Interest

§ 279. Direct and certain, not remote, interest

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West's Key Number Digest

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In order for a judge to be disqualified, the judge's interest in the subject matter of litigation must be direct, real, and certain and not one which is merely incidental, remote, contingent, or speculative.

To disqualify a judge, the judge's interest in the subject matter of the litigation must be direct,¹ real, and certain,² and not one which is merely incidental, remote, contingent, or possible,³ speculative, unreal, or merely theoretical.⁴ Nevertheless, it has been broadly stated that a judge should not sit in any case in which the judge is directly or indirectly interested⁵ and that an indirect financial interest in a claim raises a question of impartiality.⁶

It is not sufficient that the judge is involved in another suit in the judge's court in which the same legal questions may arise.⁷ The mere filing of a lawsuit against a judge does not encumber that judge with the type of certain and immediate, personal, or pecuniary stake in the underlying litigation that prevents the judge from deciding the case.⁸ Certainly, the filing of a sham or frivolous pleading, in which the judge before whom the case is to be tried is made a party for the sole purpose of disqualifying the judge, should not be countenanced.⁹

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Footnotes

- 1 Cal.—Haas v. County of San Bernardino, 27 Cal. 4th 1017, 119 Cal. Rptr. 2d 341, 45 P.3d 280 (2002).
Ga.—Reese v. State, 252 Ga. App. 650, 556 S.E.2d 150 (2001).
Tex.—Williams v. Viswanathan, 64 S.W.3d 624 (Tex. App. Amarillo 2001).
- 2 Ga.—Reese v. State, 252 Ga. App. 650, 556 S.E.2d 150 (2001).
Tex.—Williams v. Viswanathan, 64 S.W.3d 624 (Tex. App. Amarillo 2001).
Capable of monetary valuation
Tex.—Narro Warehouse, Inc. v. Kelly, 530 S.W.2d 146 (Tex. Civ. App. Corpus Christi 1975), writ refused n.r.e.
- 3 Tex.—Fuelberg v. State, 410 S.W.3d 498 (Tex. App. Austin 2013).
- 4 Colo.—Maes v. People, 169 Colo. 200, 454 P.2d 792 (1969).
N.M.—State ex rel. Anaya v. Scarborough, 1966-NMSC-009, 75 N.M. 702, 410 P.2d 732 (1966).
- 5 Me.—Hughes v. Black, 156 Me. 69, 160 A.2d 113 (1960).
- 6 U.S.—Yamaha Motor Corp., U.S.A. v. Riney, 21 F.3d 793 (8th Cir. 1994).
- 7 Tex.—Grigsby v. May, 84 Tex. 240, 19 S.W. 343 (1892).
- 8 Tex.—In re Lincoln, 114 S.W.3d 724 (Tex. App. Austin 2003).
- 9 U.S.—Ely Valley Mines, Inc. v. Lee, 385 F.2d 188 (9th Cir. 1967).
Mass.—Com. v. Leventhal, 364 Mass. 718, 307 N.E.2d 839 (1974).